

CHAPTER 29.06 - USES ¹

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29.06.010 Uses

All uses allowed by this title shall be identified as:

- A. Permitted use.
- B. Conditional use.
- C. Temporary use.
- D. Nonconforming use.

29.06.020 Prohibited Uses

Any use which is not identified by this title as either a permitted use, a conditional use, or a temporary use is hereby determined to be a prohibited use. A prohibited use shall not be allowed or authorized within the incorporated area of the City.

29.06.030 Application Required

All requests for a permitted use, a conditional use, or a temporary use shall be made on an application form provided by the Community Development Department.

29.06.040 Permitted Uses

The Community Development Supervisor/City Planner is authorized to issue all required approval of zoning for a permitted use. As required by the City building codes, all requests for a permitted use shall also provide an application for a building permit and/or application for a business license, as applicable. No permitted use shall become effective until an approval is received from the Supervisor/City Planner and a building permit and/or business license, as required, is issued by the City Building Department. The Supervisor/City Planner is also authorized to impose such other reasonable conditions as provided in section 29.06.050 of this chapter.

29.06.050 Standards and Criteria for Permitted Use

All applications for a permitted use are required to comply with the requirements of this title, the requirements of the City Building Codes, and the City Business License codes (Title 14) as adopted and as applicable. A permitted use application shall be reviewed in accordance with the following general standards and criteria:

A. The Community Development Department shall review the permitted use request and determine if the request meets the following requirements:

1. The use is identified as a permitted use within the zoning district as identified in Chapter 29.09, "Schedule of Zoning Uses", of this title.
2. The use complies with the requirements for the zoning district with respect to minimum area, setback requirements, height, buffer and landscape standards, maximum coverage, parking, unloading, and

¹Section 29-01 - 29-09 completely rewritten upon approval of Ordinance No. 07-13, dated 7/19/07

all other requirements applicable to the district.

3. The use does not have an adverse effect on any sensitive areas, as defined by this Section 29.17 of this title.

4. The use complies with all road dedication requirements of the City and provides necessary infrastructure as required by the Brigham City Public Works Standards and/or Utah Department of Transportation.

5. The use meets all requirements of the Bear River Health Department and Utah Department of Environmental Quality as required and applicable.

B. Upon finding that the proposed use, building or structure complies with the standards and requirements of this title, the Supervisor/City Planner shall issue an approval of zoning. With the receipt of a zoning clearance, the proposed building or structure shall be reviewed for compliance with the City building codes, as adopted. If the request for a permitted use complies with the requirements of this title, the City building codes, as adopted, and the requirements of the Bear River Health Department or the Utah Department of Environmental Quality, as applicable, the permitted use shall be authorized.

29.06.060 Conditional Uses

A. The purpose of the issuance of a conditional use permit is to allow the proper integration into the City of those uses which may be suitable in specific locations or if such uses are designed, arranged or conducted on the site in a particular manner.

B. A conditional use permits may be approved by the planning commission as provided by this title for any of the uses for which a conditional use permit is required as identified in Section 29.09, "Schedule of Zoning Uses", of this title. The planning commission is also authorized to impose such other reasonable conditions as provided in Section 29.06.070 of this chapter.

29.06.070 Standards and Criteria for Conditional Use

A. The planning commission shall review a conditional use request with the following general standards and criteria:

1. The use applied for at the location proposed is necessary or desirable to provide a service or facility that will contribute to the general well being of the area and the City;

2. Compatibility of the proposed use with the intent, function and policies established in the Brigham City General Plan;

3. Compatibility of the proposed use with the character of the site, adjacent properties and other existing and proposed development;

4. The availability of, or ability to provide adequate services, drainage, parking and loading space, fire protection, and safe transportation access and vehicular circulation;

5. Such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;

6. If the planning commission determines that the standards of this section cannot be met and that adequate mitigation measures cannot be imposed to bring the use into conformity with the standards and criteria, the planning commission may deny the request for a conditional use permit.

B. In approving a conditional use permit, the planning commission may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, flood control, time limits, and other items for the conditional use permit as deemed necessary for the protection of adjacent properties and the public interest. The planning commission may require guarantees or other evidence that such conditions will be met and complied with.

29.06.080 Revocation or Modification of Conditional Use Permit

A. If there is cause to believe that grounds exist for revocation or modification of an approved conditional use permit, the planning commission shall schedule the item for consideration at a regular meeting. A minimum notice of fourteen (14) days prior to the meeting shall be provided to the owner and the operator of the approved conditional use permit.

B. A conditional use permit may be modified or revoked by the planning commission if the planning commission finds that one or more of the following conditions exist:

1. The conditional use permit was obtained in a fraudulent manner.

2. The use for which the conditional use permit was granted has now ceased for at least eighteen (18) consecutive calendar months.

3. The nature of the use for which the conditional use permit was granted has changed or the intensity of use has increased beyond that originally approved.
4. The use constitutes a nuisance.
5. One or more of the conditions of the conditional use permit have not been met.

29.06.090 Conditional Use Permit to Run with the Land

All conditional use permits authorized and approved as required by this title are determined to run with the land.

29.06.100 Temporary Uses

A. The purpose of the issuance of a temporary use is to allow the establishment of a use on a temporary basis which will not create an undue risk to the public health, welfare and safety, and which will not create a nuisance. Such uses may include, but is not limited to, construction offices, or the storage of materials and equipment necessary for construction, and seasonal activities such as a corn maze, pumpkin patch/stand, fireworks stand, and Christmas tree lot.

B. A temporary use shall be approved by the Supervisor/City Planner, as provided by this title, for any of the uses for which a temporary use is identified in Chapter 29.09 "Schedule of Zoning Uses", of this title. A temporary use shall only be authorized by the Supervisor/City Planner for a period of up to six (6) months. As required by the City building codes, all requests for a temporary use shall also provide application for a building permit and/or application for a business license, as required by the City. No temporary use shall become effective until approval is received from the Supervisor/City Planner and a building permit and/or business license, if required, is issued by the county building official and/or county clerk. The zoning administrator is also authorized to impose such other reasonable conditions as provided in Section 29.06.110 of this chapter.

29.06.110 Standards and Criteria for Temporary Uses

In approving a temporary use, the Supervisor/City Planner may impose such reasonable conditions with respect to location, construction, maintenance, operation, site planning, traffic control, time limits, and other items for the temporary use as deemed necessary for the protection of adjacent properties and the public interest. The Supervisor/City Planner may require guarantees or other evidence that such conditions will be met and complied with.

A. The Supervisor/City Planner shall review a temporary use request with the following general standards and criteria:

1. The property on which the use, building or other structure is proposed is of adequate size and dimensions to permit the conduct of the use in such a manner that it will not be materially detrimental to adjoining and surrounding properties.
2. The use will cease within a maximum of six (6) months from the date of issuance of the temporary use permit.
3. The use will comply with all requirements of the City building codes, City business ordinance (Title 14), Bear River Health Department, and all other requirements as applicable.

B. In approving a temporary use, the Supervisor/City Planner may impose such reasonable conditions or restrictions as deemed necessary to secure the purposes of this title. These conditions may include:

1. That the site will be suitably maintained and that the design, setbacks, fences, walls and buffers of all buildings and other structures are adequate to protect, preserve and/or enhance the appearance and character of the area.
2. The regulations of Section 29.25 "Off-Street Parking", of this title, dealing with parking facilities, including vehicular ingress and egress, loading and unloading areas, and the surfacing of parking areas and driveways to specified standards.
3. The provision of an adequate water supply, sewage disposal, flood control and fire protection.
4. The mitigation of nuisance factors such as noise, vibrations, smoke, dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic disturbances and radiation.
5. Does not have an adverse effect on any sensitive areas, as defined by this title.
6. The regulation of operating hours for activities affecting normal schedules and functions.
7. The regulation of signs as per Section 29.26 "Sign Regulations", of this title.
8. The provision of a reasonable guarantee, bond or other surety, as determined by the zoning administrator, that the proposed temporary use will be maintained and operated in compliance with all

conditions and requirements.

9. Such other reasonable conditions determined necessary by the Supervisor/City Planner to allow the establishment and operation of the proposed temporary use in an orderly and efficient manner.

29.06.120 Appeals of Permitted Use, Conditional Use or Temporary Use Decision

Any person adversely affected by a decision of the Supervisor/City Planner or the Land Use Authority in the approval or denial of a permitted use, conditional use or temporary use may, within fourteen (14) days after the decision is made, file an appeal of the decision to the Appeal Authority specifying the nature of the appeal and the grounds on which they are adversely affected.

29.06.130 Nonconforming Use, Lot or Structure:

A nonconforming use, lot or structure legally existing at the time this title becomes effective, or at the time of an amendment to this title, or by some action by a federal, state or local government entity may continue, provided the use, lot or structure has been maintained continuously. A nonconforming use, lot or structure shall not be enlarged upon, expanded or intensified, except as provided for in subsection 29.06.140 of this chapter.

29.06.140 Standards and Criteria for Nonconforming Use, Lot or Structure

A nonconforming use, lot, or structure that legally exists at the time this Ordinance becomes effective, or at the time of an amendment to this Ordinance, or by some action by a Federal, State, or local government entity may continue provided that the use, lot, or structure has been maintained continuously.

A. Alteration of a Nonconforming Use, Lot, or Structure

1. A nonconforming use, lot, or structure shall not be enlarged upon, expanded, or intensified.

A nonconforming use, lot, or structure may apply to the Appeal Authority to be enlarged or modified by meeting the following criteria:

a. The change is in harmony with the surrounding neighborhood and in keeping with the intent of the Comprehensive Plan and this ordinance.

b. The proposed change shall not impose any unreasonable impact or burden upon land located in the vicinity.

c. Reasonable conditions may be attached to the approval in order to assure compatibility with the surrounding properties.

2. A nonconforming use or structure may be maintained and repaired. On any work being completed that requires a building permit, a zoning approval shall be issued that identifies the following: the nonconformity; its legally nonconforming status; and that the use, lot, or structure is not being enlarged, expanded, or intensified

3. Any reconstruction or restoration of a nonconforming structure shall comply with both this Ordinance and with Utah State code § 10-9a-511(3).

B. The determination of an abandonment of a nonconforming use, lot, or structure shall comply with Utah State code §10-9a-511(4).

~~Chapter 29.06. Conditional Uses.~~

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~~29.06.010. Purpose of Conditional Use Provisions.~~

~~————— Certain uses which may be harmonious under special conditions and in specific locations within a district, but be improper under general conditions and in other locations, are classed as conditional uses within the various districts and require conditional use permits for approval. —————~~

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~~29.06.020. Permit Required.~~

~~————— A conditional use permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this Ordinance. A conditional use permit may be revoked upon failure to comply with conditions precedent to the original approval of the certificate. —————~~

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~~29.06.030. Application.~~

~~————— A conditional use permit application shall be made to the building inspector as provided in this Ordinance. He shall submit the application to the Planning Commission, except that the Planning Commission may authorize the zoning administrator to grant or deny conditional use permits, subject to such limitations or qualifications as are deemed necessary. Applications for a conditional use permit shall be accompanied~~

by maps, drawings, statements, or other documents as required by the Planning Commission.

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~~29.06.040. Fee.~~

~~The application for any conditional use permit shall be accompanied by the appropriate fee as determined by the Governing Body.~~

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~~29.06.050. Public Hearing.~~

~~No public hearing need be held. However, a hearing may be held if the zoning administrator or Planning Commission shall deem a hearing to be necessary and in the public interest.~~

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~~29.06.060. Determination.~~

~~The Planning Commission, or upon authorization the zoning administrator, may permit a conditional use to be located within any district in which the particular conditional use is permitted by the use regulations of this Ordinance. In authorizing any conditional use the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a conditional use permit unless the evidence presented is such as to establish:~~

~~A. That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity, and,~~

~~B. That the proposed use will comply with regulations and conditions specified in this Ordinance for such use.~~

~~C. The Planning Commission shall itemize, describe, or justify the conditions imposed on the use.~~

~~29.06.070. Appeals of Decision.~~

~~Any person shall have the right to appeal the decision of the zoning administrator to the Planning Commission. Appeals from the decision of the Planning Commission shall be to the Board of Adjustment. All appeals must be filed with the secretary of the Board of Adjustment within thirty (30) days of the date of the final decision of the Planning Commission.~~

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~~29.06.080. Inspection.~~

~~Following the issuance of a conditional use permit by the zoning administrator or the Planning Commission, the zoning administrator shall approve an application for a building permit, and shall insure that development is undertaken and completed in compliance with said conditional use and building permit.~~

~~29.06.090. Time Limit.~~

~~A. A conditional use permit for temporary uses may be issued for a maximum period of six (6) months, with renewals at the discretion of the Planning Commission for not more than three (3) successive periods thereafter.~~

~~B. Unless there is substantial action under a conditional use permit within a maximum period of one (1) year of its issuance, the said permit shall expire. The planning commissioner may grant a maximum extension for six months, when deemed in the public interest.~~